

DRAFT

AG Contract No. _____

ADOT MPD File No.: JPA _____

Tracs No. _____

Project: Planning Assistance for Rural Areas

Section: _____ Tribe

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
_____ TRIBE

THIS AGREEMENT is entered into _____, 2008, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the _____ TRIBE, acting by and through its Tribal Council (the "Tribe").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.
2. The Tribe is empowered by Tribal Council Resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute the Agreement on behalf of the Tribe.
3. The State and the _____ Tribe desire to jointly participate in the Planning Assistance for Rural Areas (PARA) study and in selecting and hiring a consultant to conduct such a study, all in accordance with the Scope, attached hereto and made a part hereof as Exhibit A, at an estimated cost of \$ _____, hereinafter referred to as the "Project".

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will:

a. Using State approved procurement procedures, participate with the _____ Tribe in the selection of a professional transportation planning consultant to accomplish the Project.

b. Review the Project progress reports and submittals and provide comments to the _____ Tribe or the consultant as appropriate. Review and approve the final report prior to the _____ Tribe's final payment to the consultant.

c. Contribute an amount not to exceed \$_____ of federal funds to the Project. Be responsible for any consultant claims for extra compensation attributable to the State.

d. No more often than monthly, reimburse the _____ Tribe on a reimbursement basis, in a total amount not to exceed \$_____ of total costs, within 30 days after receipt and approval of invoices.

2. The _____ Tribe will:

a. Using State approved procurement procedures, advertise for, and with the concurrence of the State, select and hire a professional transportation planning consultant to accomplish the Project. Be the lead agency for the Project. Strictly comply with all applicable state and federal procurement laws, rules and procedures.

b. Provide the State timely copies of Project progress reports and submittals, and insure the incorporation of State review comments. Provide the State a copy of the final report, and obtain the State's approval prior to making final payment to the consultant. Accept the final report on behalf of the parties hereto.

c. Contribute an amount not to exceed \$_____ of non-federal funds (to fulfill match requirement) and for any consultant claims for extra compensation, attributable to the _____ Tribe.

d. No more often than monthly, invoice ADOT, in the form of Exhibit B attached and made a part hereof, supported by narrative reports and an accounting of monthly expenditures, including a detailed listing of match documentation, associated with the project, to the Project Manager for ADOT, as noted in III.6 below.

e. Comply with all applicable State, Federal and local law.

f. Ensure that Environmental Justice (Title VI) issues are dealt with in the following manner:

The transportation improvement projects recommended in this study must examine the potential effects, both positive and negative, that these projects may have on minority and low-income populations. Census data are readily available and describe the population living within geographic regions affected by proposed transportation improvements. Should any of the projects place a disproportionate burden on minority or low-income populations, the study must explain the considerations that dictated this recommendation over alternative actions. In addition, a concerted effort must be made to reach minority and low-income populations when conducting the study's two public meetings.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said Project and reimbursements; provided, however, that this agreement may be cancelled at any time prior to the advertisement of a Project consultant contract, upon thirty (30) days written notice to the other party.

2. This agreement shall become effective upon filing with the Secretary of State.
3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.
4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.
5. Applicable laws and regulations of the State and the Tribe shall govern the rights of the parties with respect to the performance of this agreement. In the event of any controversy which may arise out of this agreement, the parties hereto agree to select a process acceptable to the State and the Tribe to resolve such disputes. Such process may include a provision for arbitration.
6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

For Contract Issues

Mary Ann Roder
Arizona Department of Transportation
Multimodal Planning Division
206 South 17 Avenue, Mail Drop 310B
Phoenix, AZ 85007
Phone: 602-712-4848
FAX: 602-712-3046

For Project Issues

Donald Sneed
Arizona Department of Transportation
Multimodal Planning Division
206 South 17 Avenue, Mail Drop 310B
Phoenix, AZ 85007
Phone: (602) 712-8140
FAX: (602) 712-3046
Email: dsneed@azdot.gov

(Project Manager Name) _____ Tribe

Phone: _____

Fax: _____

Email: _____

7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.
8. Federal funds for the described Scope of Work are contingent upon availability of funding and approvals as appropriate by FHWA and ADOT.
9. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U. S. C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. (Non-Discrimination: The contractor shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities, and all other applicable state and federal employment laws, rules and regulations, including the Americans With Disabilities Act. The contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, age, national origin or political affiliation or disability.)

10. Each party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees), hereinafter collectively referred to as "claims", arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents employees, or volunteers.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TRIBE

By _____
_____, Tribal Leader

STATE OF ARIZONA
Department of Transportation

By _____
RAKESH TRIPATHI, Division Director
Multimodal Planning Division

ATTEST

By _____
_____, Tribal Secretary